

PASARR REQUIREMENTS

Purpose: To ensure that individuals who have a mental illness or who have a developmental disability (mental retardation):

- 1) Are placed in a nursing facility only when their needs:
 - a) Cannot be met in an appropriate community placement (note: there are many persons who may qualify for a Title 19 care level whose needs can be met in an appropriate community placement --- PASARR prohibits the admission or retention of such individuals in a nursing facility under circumstances described later); and
 - b) Do not require the specialized care and treatment of an inpatient psychiatric hospital or ICF/MR placement.
- 2) Receive appropriate treatment (specialized services) for their mental illness or developmental disability if their independent functioning is limited due to their disability.

Applicability: The federal PASARR statutes and regulations apply to all individuals who are seeking admission to a nursing facility and all residents of a nursing facility, irrespective of source of payment. The PASARR process only applies to Medicaid certified (Title 19) nursing facilities. PASARR does not apply to hospitals, Medicare certified only nursing facilities, HFS 132 licensed only nursing homes, ICFs/MR, or group homes (CBRFs and adult family homes). PASARR will apply to individuals who are seeking admission to a nursing facility, but currently reside in a group home, ICF/MR, etc.

Important Note: The PASARR regulations refer to an interfacility transfer as any situation in which a nursing home resident is transferred from one Medicaid certified nursing facility to another Medicaid certified nursing facility, with or without an intervening hospital stay (for any reason). A Pre-Admission Screening is not required for interfacility transfers; however, a resident review may be required at some time if the individual experienced a significant change of status related to PASARR, as explained later.

Basic PASARR Process: Any current or prospective nursing facility resident suspected of having a mental illness or a developmental disability, as noted by a correctly completed Level I screen (see attached copy) must be referred to the PASARR contractor for a Level II screen. The contractor will perform the Level II screen and make a determination about the appropriateness of nursing facility placement as well as the need for specialized services. Each individual who is identified through the Level I form as a person who is suspected of having a serious mental illness or a developmental disability continues to need a Pre-Admission Screening (Level II screen) before admission to a nursing facility, unless the individual qualifies for a short-term exemption for:

- 1) Post-hospitalization recuperative (medical, not psychiatric) care of 30 days or less;
- 2) Pre-placement admission of 30 days or less;
- 3) Respite care to in-home caregivers who expect the person to return for up to 7 days, for a maximum of 30 days per year; or
- 4) Provisional admissions pending further assessment in emergency situations requiring protective services of 7 days or less.

Note: These short-term exemptions are to be based on a reasonable expectation that the admission would not exceed the permitted timeframe. For example, it is reasonable to expect that a 50-year old individual, who fell and broke his/her hip, but is otherwise in good health, may need 30 days or less of recuperative care. On the other hand, an 85-year old individual who had diabetes, osteoporosis, osteoarthritis, etc. is likely to need more than 30 days recuperative care for a broken hip.

Beginning January 1, 1997, Wisconsin Medicaid-certified nursing facilities no longer need to have an annual resident review for any resident. Until the federal Health Care Financing Administration promulgates new regulations implementing this change in the federal law as relayed in a future informational memorandum, Medicaid-certified nursing facilities must make a referral for a “change in status” review under the following situations:

- a) A client who is admitted under a permissible short-term exemption (e.g., for a post-hospitalization recuperative care stay for up to 30 days) and needs to stay longer beyond the timeframe for the permissible exemption must be referred for a Level II Screen on or before the last day of the permitted timeframe if any of the questions in Section A of the PASARR Level I Screen are checked “yes”;
- b) A client whose medical/physical condition improves to a level to cause the nursing facility to suspect that the client’s needs could be met in an appropriate community setting, as described in the PASARR regulations and preamble, must have a resident review;
- c) A client who previously received a PASARR review and was found to need specialized services must receive a resident review if his/her level of independent functioning improves such that he/she no longer requires continuous and aggressive treatments and services to address limitations in independent functioning caused by the client’s mental illness or developmental disability;
- d) A client whose independent functioning now is significantly limited as a result of a mental illness or developmental disability, but previously was not significantly limited must receive a resident review;
- e) If the responses to all questions # 1 - 5 in Section A of the Level I screen for a client at the time of his/her admission to a nursing facility are checked “no” but the response to one or more of these questions should have been “yes”; or
- f) A client who previously received a PASARR review and was found to need specialized services must receive a resident review if his/her level of independent functioning declines due to a marked and permanent deterioration in his/her cognitive functioning due to dementia or health status such that he/she is unable to participate or benefit from specialized services.

Note: The state and federal nursing home regulations require that the facility update the client’s MDS and care plan to reflect the change in condition. Nothing in the nursing facility regulations implies that the facility should wait for the results of a new Level II screen before updating the client’s care plan.

The PASARR contractor is to complete preadmission screens within eight working days. The PASARR contractor is required by contract to complete the “change in status” resident review no later than 30 calendar days after the date of referral. The PASARR Contract Administrator will give an extension of these time limits to the contractors when there is reasonable cause.

Consequences of the PASARR determinations: The consequences of the PASARR determinations are noted on the PASARR Evaluation Summary and Notice of Appeal Rights, along with instructions of how a client (or his/her legal representative) may appeal the PASARR determinations (see the attached copy).

Specialized Services: Specialized services issues will be dealt with in a separate memo. If you have questions about specialized services, reimbursement for providing specialized services or specialized psychiatric rehabilitation services, or need technical assistance (limited) contact Dan Zimmerman, the PASARR Contract Administrator (see page one for his contact information).

The department's PASARR contractor is:

Behavioral Consulting Services, Inc.
1533 Wisconsin Avenue
Grafton, WI 53024
(262) 376-1224
(262) 376-0928 or (262) 376-0948 (both are fax numbers)

OTHER NURSING HOME ADMISSION REQUIREMENTS PERTINENT FOR PERSONS WHO HAVE A MENTAL ILLNESS OR A DEVELOPMENTAL DISABILITY

BQA issued a memo dated April 16, 1996 (memo # BQC-96-019) informing surveyors, nursing homes and facilities for the developmentally disabled that a Medicaid care level cannot be assigned to an individual until documentation for all admission requirements has been received by the appropriate BQA Regional Office.

For persons who have a serious mental illness, the documentation must include a completed DDE-2256 Care Level Determination form; a copy of the DDE-822 form from the county of responsibility that provides the county's approval of the admission (please see Attachment 1 for a comprehensive listing of County PASARR Liaisons), as required by HFS 132.51(2)(e); and, if the individual is entering a Medicaid certified nursing facility, a copy of the PASARR Level II Facesheet, which denotes the PASARR determinations.

For persons who have a developmental disability, the documentation must include a completed DDE-2256 Care Level Determination form; a copy of the DDE-822 form from the county of responsibility that provides the county's approval of the admission (please refer to Attachment 1 for a listing of the County PASARR Liaisons), as required by HFS 132.51(2)(d) and HFS 134.52(2)(b); and, if the individual is entering a Medicaid certified nursing facility, a copy of the PASARR Level II Facesheet, which denotes the PASARR determinations. In addition, HFS 132.51(2)(d) prohibits the admission to a nursing home of a person who has a developmental disability unless the individual is at a skilled nursing care level ---a facility may request a waiver of this requirement. If the person is entering a facility for the developmentally disabled or was found to need specialized services for a developmental disability and will be entering a Medicaid-certified nursing facility, then a completed copy of the DDE-2256A, the DD Addendum to the Care Level Determination form also must be completed.

Important limitations on admission of a person who has been found to be incapacitated,

adjudicated incompetent, or appears to be incompetent for both populations: In most cases, a court order for guardianship and protective placement are required prior to admission because of the following State of Wisconsin statutory limitations (significant phrases are underlined):

Limitations regarding 1993 Act 187, which added the following to ch. 50, Stats.:

50.06 Certain admissions to facilities.

(1) In this section, "incapacitated" means unable to receive and evaluate information effectively or to communicate decisions to such an extent that the individual lacks the capacity to manage his or her health care decisions, including decisions about his or her post-hospital care.

(2) An individual under sub. (3) may consent to admission, directly from a hospital to a facility, of an incapacitated individual who does not have a valid power of attorney for health care and who has not been adjudicated incompetent under ch. 880, if all of the following apply:

(a) No person who is listed under sub. (3) in the same order of priority as, or higher in priority than, the individual who is consenting to the proposed admission disagrees with the proposed admission.

(am)

1. Except as provided in subd. 2., no person who is listed under sub. (3) and who resides with the incapacitated individual disagrees with the proposed admission.

2. Subdivision 1. does not apply if any of the following applies:

a. The individual who is consenting to the proposed admission resides with the incapacitated individual.

b. The individual who is consenting to the proposed admission is the spouse of the incapacitated person.

(b) The individual for whom admission is sought is not diagnosed as developmentally disabled or as having a mental illness at the time of the proposed admission.

(c) A petition for guardianship for the individual under s. 880.07 and a petition for protective placement of the individual under s. 55.06 (2) are filed prior to the proposed admission.

Limitations regarding powers of a health care agent under ch. 155, Stats.:

155.20(2)(a) A health care agent may not consent to admission of the principal on an inpatient basis to any of the following:

1. An institution for mental diseases, as defined in s. 49.43 (6m).

2. An intermediate care facility for the mentally retarded, as defined in s. 46.278 (1m) (am).

3. A state treatment facility, as defined in s. 51.01 (15).

4. A treatment facility, as defined in s. 51.01 (19)."

155.20 (2) (c) 2. A health care agent may consent to the admission of a principal to the following facilities, under the following conditions:

a. To a nursing home, for recuperative care for a period not to exceed 3 months, if the principal is admitted directly from a hospital inpatient unit, unless the hospital admission was for psychiatric care.

b. If the principal lives with his or her health care agent, to a nursing home or a community-based residential facility, as a temporary placement not to exceed 30 days, in order to provide the health care agent with a vacation or to release temporarily the health care agent for a family emergency.

c. To a nursing home or a community-based residential facility, for purposes other than those specified in subd. 2. a. and b., if the power of attorney for health care instrument specifically so authorizes and if the principal is not diagnosed as developmentally disabled or as having a mental illness at the time of the proposed admission.

Limitations for admissions by a guardian without court involvement:

55.05 (5) (b)

1. Guardians of persons who have been found incompetent under s. 880.33 may consent to admission to a foster home, group home or community-based residential facility, as defined under s. 50.01 (1g), without a protective placement under s. 55.06 if the home or facility is licensed for fewer than 16 beds. Prior to providing that consent, and annually thereafter, the guardian shall review the ward's right to the least restrictive residential environment and consent only to admission to a home or facility that implements those rights.

2. Guardians of persons who have been found incompetent under s. 880.33 may consent to admission to a nursing home if the person is admitted directly from a hospital inpatient unit for recuperative care for a period not to exceed 3 months, unless the hospital admission was for psychiatric care. Prior to providing that consent, the guardian shall review the ward's right to the least restrictive residential environment and consent only to admission to a nursing home that implements those rights.

Following the 3-month period, a placement proceeding under s. 55.06 is required.

55.05 (5) (c) If a person admitted under par. (b) verbally objects to or otherwise actively protests such an admission, the person in charge of the home or facility shall immediately notify the agency designated under s. 55.02 for the county in which the person is living. Representatives of that agency shall visit the person as soon as possible, but no later than 72 hours after notification, and do the following:

1. Determine whether the protest persists or has been voluntarily withdrawn and consult with the person's guardian regarding the reasons for the admission.
2. Attempt to have the person released within 72 hours if the protest is not withdrawn and necessary elements of s. 55.06 (2) or (11) are not present and provide assistance in identifying appropriate alternative living arrangements.
3. Comply with s. 55.06 (11) if all elements are present and emergency placement in that facility or another facility is necessary or file a petition for protective placement under s. 55.06 (2). The court, with the permission of the facility, may order the person to remain in the facility pending the outcome of the protective placement proceedings.

55.06 (11) (a) If from personal observation of a sheriff, police officer, fire fighter, guardian, if any, or authorized representative of a board designated under s. 55.02 or an agency designated by it appears probable that an individual will suffer irreparable injury or death or will present a substantial risk of serious physical harm to others as a result of developmental disabilities, infirmities of aging, chronic mental illness or other like incapacities if not immediately placed, the person making the observation may take into custody and transport the individual to an appropriate medical or protective placement facility. The person making placement shall prepare a statement at the time of detention providing specific factual information concerning the person's observations and the basis for emergency placement. The statement shall be filed with the director of the facility and shall also be filed with any petition under sub. (2). At the time of placement the individual shall be informed by the director of the facility or the director's designee, both orally and in writing, of his or her right to contact an attorney and a member of his or her immediate family and the right to have an attorney provided at public expense, as provided under s. 967.06 and ch. 977, if the individual is a child or is indigent. The director or designee shall also provide the individual with a copy of the statement by the person making emergency placement.

55.06 (11) (b) Upon detention, a petition shall be filed under sub. (2) by the person making such emergency placement and a preliminary hearing shall be held within 72 hours, excluding Saturdays, Sundays and legal holidays, to establish probable cause to believe the grounds for protective placement under sub. (2). The sheriff or other person making placement under par. (a) shall provide the individual with written notice and orally inform him or her of the time and place of the preliminary hearing. If the detainee is not under guardianship, a petition for guardianship shall accompany the placement petition, except in the case of a minor who is alleged to be developmentally disabled. In the event that protective placement is not appropriate, the court may elect to treat a petition for placement as a petition for commitment under s. 51.20 or 51.45 (13).

55.06 (12) When a ward lives with the guardian, the guardian may make temporary placement of the ward. Placement may be made to provide the guardian with a vacation or to temporarily release the guardian for a family emergency. Such placement may be made for not more than 30 days but the court may upon application grant an additional period not to exceed 60 days in all. The application shall include such information as the court may reasonably deem necessary. When reviewing the application, the court shall provide the least restrictive placement which is consistent with the needs of the ward.

Wisconsin Act 33 of 2003 included several changes to ch. 55, Stats. effecting persons who have a developmental disability. Amended sections of existing statutory language have deletions shown in strikeout font and additions in underlined font:

SECTION 1132. 46.279 of the statutes is created to read:

46.279 Restrictions on placements and admissions to intermediate and nursing facilities. (1)

DEFINITIONS. In this section:

(a) “Developmental disability” has the meaning given in s. 51.01 (5) (a).

(b) “Intermediate facility” means an intermediate care facility for the mentally retarded, as defined in 42 USC 1396d (d), other than a center for the developmentally disabled, as defined in s. 51.01 (3).

(bm) “Most integrated setting” means a setting that enables an individual to interact with persons without developmental disabilities to the fullest extent possible.

(c) “Nursing facility” has the meaning given under 42 USC 1369r (a).

(2) PLACEMENTS AND ADMISSIONS TO INTERMEDIATE FACILITIES. Except as provided in sub. (5), no person may place an individual with a developmental disability in an intermediate facility and no intermediate facility may admit such an individual unless, before the placement or admission and after having considered a plan developed under sub. (4), a court under s. 55.06 (9) (a) or (10) (a) 2. finds that placement in the intermediate facility is the most integrated setting that is appropriate to the needs of the individual, taking into account information presented by all affected parties. An intermediate facility to which an individual who has a developmental disability applies for admission shall, within 5 days after receiving the application, notify the county department that is participating in the program under s. 46.278 of the county of residence of the individual who is seeking admission concerning the application.

(3) PLACEMENTS AND ADMISSIONS TO NURSING FACILITIES. Except as provided in sub. (5), if the department or an entity determines from a screening under s. 49.45 (6c) (b) that an individual requires active treatment for developmental disability, no individual may be placed in a nursing facility, and no nursing facility may admit the individual, unless it is determined from the screening that the individual’s need for care cannot fully be met in an intermediate facility or under a plan under sub. (4).

(4) PLAN FOR HOME OR COMMUNITY–BASED CARE. Except as provided in a contract specified in sub. (4m), a county department that participates in the program under s. 46.278 shall develop a plan for providing home or community–based care in a noninstitutional community setting to an individual who is a resident of that county, under any of the following circumstances:

(a) Within 120 days after any determination made under s. 49.45 (6c) (c) 3. that the level of care required by a resident that is provided by a facility could be provided in an intermediate facility or under a plan under this subsection.

(b) Within 120 days after receiving written notice under sub. (2) of an application.

(c) Within 120 days after a proposal is made under s. 55.06 (9) (a) to place the individual in an intermediate facility or a nursing facility.

(d) Within 120 days after receiving written notice under s. 55.06 (10) (a) 2. of the placement of the individual in a nursing facility or an intermediate facility.

(e) Within 90 days after extension of a temporary placement order by the court under s. 55.06 (11) (c).

(4m) CONTRACT FOR PLAN DEVELOPMENT. The department shall contract with a public or private agency to develop a plan under sub. (4), and the county department is not required to develop such a plan, for an individual, as specified in the contract, to whom all of the following apply:

(a) The individual resides in a county with a population of less than 100,000 in which are located at least 2 intermediate facilities that have licenses issued to private nonprofit organizations that are exempt from federal income tax under section 501 (a) of the Internal Revenue Code.

(b) Placement for the individual is in, or proposed to be in, an intermediate facility specified under par. (a) that has agreed to reduce its licensed bed capacity to an extent and according to a schedule acceptable to the facility and the department.

(5) EXCEPTIONS. Subsections (2) and (3) do not apply to an emergency placement under s. 55.06 (11) (a) or to a temporary placement under s. 55.06 (11) (c) or (12).

SECTION 1504. 55.001 of the statutes is amended to read:

55.001 Declaration of policy. The legislature recognizes that many citizens of the state, because of the infirmities of aging, chronic mental illness, mental retardation, other developmental disabilities or like incapacities incurred at any age, are in need of protective services. ~~These~~ Except as provided in s. 49.45 (30m) (a), these services should, to the maximum degree of feasibility under programs, services and resources that the county board of supervisors is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds, allow the individual the same rights as other citizens, and at the same time protect the individual from exploitation, abuse and degrading treatment. This chapter is designed to establish those services and assure their availability to all persons when in need of them, and to place the least possible restriction on personal liberty and exercise of constitutional rights consistent with due process and protection from abuse, exploitation and neglect.

SECTION 1505. 55.01 (4g) of the statutes is created to read:

55.01 (4g) “Intermediate facility” has the meaning given in s. 46.279 (1) (a).

SECTION 1506. 55.01 (4t) of the statutes is created to read:

55.01 (4t) “Nursing facility” has the meaning given in s. 46.279 (1) (b).

SECTION 1507. 55.045 of the statutes is amended to read:

55.045 Funding. The Except as provided in s. 49.45 (30m) (a), the appropriate county department designated under s. 55.02 shall within the limits of available state and federal funds and of county funds required to be appropriated to match state funds, provide for the reasonable program needs of persons who are protectively placed or who receive protective services under this chapter, including reasonable expenses for the evaluations required by s. 55.06 (8). Payment and collections for protective placement or protective services provided in public facilities specified in s. 46.10 shall be governed in accordance with s. 46.10. The department may require that a person who is protectively placed or receives protective services under this chapter provide reimbursement for services or care and custody received, based on the ability of the person to pay for such costs.

SECTION 1508. 55.06 (5) of the statutes is amended to read:

55.06 (5) Notice of a petition for placement shall be served upon the person sought to be placed, by personal service, at least 10 days prior to the time set for a hearing. Upon service of the notice, the person sought to be protected shall be informed of the complete contents of the notice. The person serving the notice shall return a certificate to the circuit judge verifying that the petition has been delivered and notice given. The notice shall include the names of all petitioners. Notice shall also be served personally or by mail upon the person’s guardian ad litem, legal counsel, guardian, if any, presumptive adult heirs, and upon other persons who have physical custody of the person to be protected whose names and addresses are known to the petitioner or can with reasonable diligence be ascertained, to any governmental or private body or group from whom the person to be protected is known to be receiving

aid, and to such other persons or entities as the court may require. Notice shall also be served personally or by mail upon the department at least 10 days prior to the time set for hearing if the person sought to be protected may be placed in a center for the developmentally disabled. ~~The department shall be allowed to submit oral or written testimony regarding such a placement at the hearing.~~ Notice shall also be served personally or by mail, at least 10 days before the time set for hearing, upon the county department that is participating in the program under s. 46.278 of the county of residence of the person sought to be protected, if the person has a developmental disability and may be placed in an intermediate facility or a nursing facility, except that, for a person sought to be protected to whom s. 46.279 (4m) applies, this notice shall instead be served on the department. The incompetent or proposed incompetent is presumed able to attend the hearing unless, after a personal interview, the guardian ad litem certifies to the court that the person is unable to attend.

SECTION 1509. 55.06 (8) (intro.) of the statutes is amended to read:

55.06 (8) (intro.) Before ordering the protective placement of any individual, the court shall direct a comprehensive evaluation of the person in need of placement, if such an evaluation has not already been made. The court may utilize available multidisciplinary resources in the community in determining the need for placement. The board designated under s. 55.02 or an agency designated by it shall cooperate with the court in securing available resources. Where applicable by reason of the particular disability, the appropriate board designated under s. 55.02 or an agency designated by it having responsibility for the place of legal residence of the individual as provided in s. 49.001 (6) shall make a recommendation for placement. If the court is considering placement of the individual in a center for the developmentally disabled, the court shall request a statement or testimony from the department regarding whether the placement is appropriate for the person's needs and whether it is consistent with the purpose of the center under s. 51.06 (1) ~~unless testimony was provided by the department under sub. (5).~~ If the individual has a developmental disability and the court is considering placement of the individual in an intermediate facility or a nursing facility, the court shall request a statement or testimony from the county department of the individual's county of residence that is participating in the program under s. 46.278 as to whether the individual's needs could be met in a noninstitutional setting, except that, if s. 46.279 (4m) applies to the individual, the court shall request the statement or testimony from the department, rather than the county department. A copy of the comprehensive evaluation shall be provided to the guardian, the guardian ad litem, and to the individual or attorney at least 96 hours in advance of the hearing to determine placement. The court or the cooperating agency obtaining the evaluation shall request appropriate information which shall include at least the following:

SECTION 1510. 55.06 (9) (a) of the statutes is amended to read:

55.06 (9) (a) The court may order protective services under s. 55.05 (2) (d) as an alternative to placement. When ordering placement, the court, on the basis of the evaluation and other relevant evidence, shall order the appropriate board specified under s. 55.02 or an agency designated by it to protectively place the individual. Placement by the appropriate board or designated agency is subject to s. 46.279 and shall be made in the least restrictive environment consistent with the needs of the person to be placed and with the placement resources of the appropriate board specified under s. 55.02. Factors to be considered in making protective placement shall include the needs of the person to be protected for health, social, or rehabilitative services; the level of supervision needed; the reasonableness of the placement given the cost and the actual benefits in the level of functioning to be realized by the individual; the limits of available state and federal funds and of county funds required to be appropriated to match state funds; and the reasonableness of the placement given the number or projected number of individuals who will need protective placement and given the limited funds available. ~~The~~ Except as provided in s. 49.45 (30m), the county may not be required to provide funding, in addition to its funds that are required to be appropriated to match state funds, in order to protectively place an individual. Placement under this

section does not replace commitment of a person in need of acute psychiatric treatment under s. 51.20 or 51.45 (13). Placement Subject to s. 46.279, placement may be made to such facilities as nursing homes, public medical institutions, centers for the developmentally disabled under the requirements of s. 51.06 (3), foster care services and other home placements, or to other appropriate facilities but may not be made to units for the acutely mentally ill. If the appropriate board or designated agency proposes to place an individual who has a developmental disability in an intermediate facility or a nursing facility under an order under this paragraph, the county department, or, if s. 46.279 (4m) applies to the individual, the department or the department's contractor shall develop a plan under s. 46.279 (4) and furnish the plan to the board or agency and to the individual's guardian. The board or agency shall place the individual in a noninstitutional community setting in accord with the plan unless the court finds that placement in the intermediate facility or nursing facility is the most integrated setting, as defined in s. 46.279 (1) (bm), that is appropriate to the needs of the individual taking into account information presented by all affected parties. The prohibition of placements in units for the acutely mentally ill does not prevent placement by a court for short-term diagnostic procedures under par. (d). Placement in a locked unit shall require a specific finding of the court as to the need for such action. A placement facility may transfer a patient from a locked unit to a less restrictive environment without court approval.

SECTION 1511. 55.06 (9) (b) of the statutes is amended to read:

55.06 (9) (b) Transfer may be made between placement units or from a placement unit to a medical facility other than those specified in pars. (c) to (e) by a guardian or placement facility without approval by a court. When transfer is made by a placement facility, 24 hours' prior written notice of the transfer shall be provided to the guardian, when feasible. If it is not feasible to notify the guardian in advance, written notice shall be provided immediately upon transfer, and notice shall also be provided to the court and to the board designated under s. 55.02 or an agency designated by it within a reasonable time, not to exceed 48 hours from the time of the transfer. Upon petition to a court by a guardian, ward, or attorney, or other interested person specifying objections to a transfer, or if the person is transferred to an intermediate facility or to a nursing facility, the court shall order a hearing, within 96 hours after filing of the petition, to determine whether there is probable cause to believe that the transfer is consistent with the requirements specified in par. (a) and is necessary for the best interests of the ward or, if the person is transferred to an intermediate facility or to a nursing facility, to determine if the intermediate facility or nursing facility is the most integrated setting, as defined in s. 46.279 (1) (bm), that is appropriate to the needs of the ward taking into account information presented by all affected parties. The court shall notify the ward, guardian, and petitioner of the time and place of the hearing, and a guardian ad litem shall be appointed to represent the ward. If the person is an adult who is indigent, the county of legal settlement shall be liable for guardian ad litem fees. If the person is a child, the person's parents or the county of legal settlement shall be liable for guardian ad litem fees as provided in s. 48.235 (8). The petitioner, ward, and guardian shall have the right to attend, and to present and cross-examine witnesses.

SECTION 1512. 55.06 (9) (c) of the statutes is amended to read:

55.06 (9) (c) ~~Transfer~~ Subject to s. 46.279, transfer to a more restrictive placement, including a locked unit, may be made with notice to the guardian, the court and appropriate board designated under s. 55.02 or an agency designated by it in the manner prescribed in par. (b). Upon petition by a guardian, ward or attorney, or other interested person specifying objections to the transfer or if the person has a developmental disability and is transferred to an intermediate facility or a nursing facility, the court shall order a hearing as provided in par. (b).

SECTION 1513. 55.06 (10) (a) of the statutes is renumbered 55.06 (10) (a) 1.

SECTION 1514. 55.06 (10) (a) 2. of the statutes is created to read:

55.06 (10) (a) 2. If the person has a developmental disability and is placed in an intermediate facility or a nursing facility, the agency that is responsible for the protective placement shall notify in writing the county department of the county of residence of the person that is participating in the program under s. 46.278 or, if s. 46.279 (4m) applies to the person, the department, at least 120 days before the review. The county department so notified or, if s. 46.279 (4m) applies, the department's contractor shall develop a plan under s. 46.279 (4) and furnish the plan to the court that ordered the placement and to the person's guardian. The court shall order that the person be transferred to the noninstitutional community setting in accordance with the plan unless the court finds that placement in the intermediate facility or nursing facility is the most integrated setting, as defined in s. 46.279 (1) (bm), that is appropriate to the needs of the person taking into account information presented by all affected parties.

SECTION 1515. 55.06 (11) (c) of the statutes is amended to read:

55.06 (11) (c) Upon a finding of probable cause under par. (b), the court may order temporary placement up to 30 days pending the hearing for a permanent placement, or the court may order such protective services as may be required. If an individual who has a developmental disability is ordered, under this paragraph, to be temporarily placed in an intermediate facility or in a nursing facility, and if at the hearing for permanent placement the court orders that the individual be protectively placed, the court may, before permanent placement, extend the temporary placement order for not more than 90 days if necessary for the county department that is participating in the program under s. 46.278 or, if s. 46.279 (4m) applies, the department's contractor to develop the plan required under s. 46.279 (4).

If you have questions about the PASARR process, the DDE-822 form and related issues for non-State residents, or if you have questions regarding or disagree with the Level II determinations, contact:

Dan Zimmerman, PASARR Contract Administrator
Bureau of Mental Health and Substance Abuse Services
1 West Wilson Street, Room 455
P. O. Box 7851
Madison, WI 53707-7851
(608) 266-7072
(608) 267-7793 - fax
zimmeds@dhfs.state.wi.us (E-mail address)